

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

FAIR ISAAC CORPORATION, a) Case No. 16-cv-1054 (DTS)
Delaware corporation,)
))
Plaintiff,)
) **Jury Trial Demanded**
v.)
))
FEDERAL INSURANCE COMPANY,)
an Indiana corporation and ACE)
AMERICAN INSURANCE)
COMPANY, a Pennsylvania)
corporation,)
))
Defendants.)

**PLAINTIFF FAIR ISAAC CORPORATION’S MEMORANDUM IN SUPPORT
OF ITS MOTION TO REDACT MAY 24, 2023 POST-TRIAL MOTIONS
HEARING TRANSCRIPT**

Plaintiff Fair Isaac Corporation (“FICO”) moves pursuant to Fed. R. Civ. P. 5.2(e) to redact its confidential information from the May 24, 2023 post-trial motions hearing transcript and requests that this Court enter an order directing that only the redacted transcript shall be docketed.

On May 24, 2023, the Court heard FICO’s motions for attorney fees, prejudgment interest, judgement as a matter of law, and for additional findings and conclusions, and Defendants Federal Insurance Company’s (“Federal”) and ACE American Insurance Company’s (“ACE”) motion for a new trial on damages. The hearing transcript was made available to the parties on June 8, 2023. [Dkt. 1266.] Review of the hearing transcript revealed the need to redact certain portions relating to FICO’s confidential information,

specifically FICO's clients' identifications and FICO's proprietary pricing information to certain clients. Throughout this case, FICO has sought to protect its pricing information. [Dkt. 664, 794, 807, 924.] This Court has previously allowed FICO's pricing information to be sealed in document and briefing form. [Dkt. 665, 837, 838, 926.] FICO has sought to redact FICO client names and client pricing from the trial transcripts. [Dkt. 1213.] Consistent with the Court's previous orders protecting FICO's confidential and proprietary information, FICO respectfully requests that this Court grant its motion to redact the post-trial motions hearing transcript.

The common law right of access to judicial records is not absolute and must be weighed against the parties' interests in maintaining confidentiality of sensitive information. *Klein v. Prime Therapeutics, LLC*, No. 17-cv-1884 (PAM/SER), 2018 U.S. Dist. LEXIS 55767, at *5–6 (D. Minn. Apr. 2, 2018) (internal citations omitted). FICO's pricing information, including the identities of its customers and what price it gave a specific customer, may be used by competitors to compete against FICO and by customers to demand better pricing. In *Kampf*, this Court granted a motion to seal an entire exhibit used during a hearing because it was “rife with . . . confidential information” and was not amenable to redaction. *Kampf v. Principal Life Ins. Co.*, No. 21-CV-580 (NEB/LIB), 2022 U.S. Dist. LEXIS 111087, at *10–11 (D. Minn. June 23, 2022). Here, FICO requests only the redaction of its confidential information including FICO's proprietary pricing information and FICO's clients' identifications, which appear on six pages of the post-trial motions hearing transcript. Specifically, FICO seeks redaction of:

- the identities of non-party FICO clients
- the amount of the license fee negotiated with a non-party

Post-trial Motions Hear. Trans. at 16:18, 16:19, 26:19, 26:24, 26:25, 27:7, 29:8, 29:9, 32:23, 33:6, 33:7, 33:16, 33:23. A proposed redacted transcript reflecting these proposed redactions is attached to the Declaration of Joseph Dubis as **Exhibit A**. The parties have maintained the confidentiality of FICO's pricing practices and client' identities because the only people in the courtroom for the May 24 hearing were counsel for the parties and court staff.¹ Furthermore, FICO conferred with counsel for Defendants Federal Insurance Company and ACE American Insurance Company regarding this Motion on June 15, 2023. Defendants have indicated that they oppose the present motion.

For the foregoing reasons, FICO requests that the Court enter an Order pursuant to Federal Rule of Civil Procedure 5.2(e): (i) allowing FICO to submit a redacted transcript of the May 24, 2023 post-trial motions hearing to the Court Reporter; and (ii) directing the Court Reporter to docket only the redacted transcript of the bifurcation hearing.

Dated: June 20, 2023

MERCHANT & GOULD P.C.

/s/ Joseph W. Dubis
 Allen Hinderaker, MN Bar # 45787
 Heather Kliebenstein, MN Bar # 337419
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¹ Two individuals believed to be Court externs or law clerks momentarily entered the Courtroom but promptly left.

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